

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Tae-Song KIM et al.

Application: 10/543,143

Group Art Unit: 3739

Filed: 07/22/2005

Examiner: Candler, Samuel M

For: METHOD AND SYSTEM FOR DATA COMMUNICATION IN HUMAN
BODY AND SENSOR THEREFOR

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO

RESTRICTION REQUIREMENT OF DECEMBER 2, 2008

Sir:

In response to the Office Action mailed on December 2, 2008, Applicants provisionally elect Group 1, directed to claims 1-14 and 39-42 with traverse.

Applicants respectfully disagree with the restriction between Group 1 (claims 1-14 and 39-42) and Group 2 (claims 15-38).

In the Office Action, the Examiner alleges that there are two distinct inventions which do not overlap in scope in application 10/543,143. That is, the Office states that the "application contains...inventions or groups of inventions which are not so linked as to form a single general inventive concept..." and in particular because "device of Group 2 does not possess a receiving

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sensor installed on the outside of the body and additionally contains multiple imaging endoscope element not possessed by Group 1.” See pages 2-3, items 1-2 of the Office Action dated December 2, 2008.

However, Applicants assert that Group 1 (claims 1-14 and 39-42) and Group 2 (claims 15-38) appear all variants of each other, and a search for the limitations as recited in independent claim 3 of Group 1, for example, would also necessitate a search for the limitations as recited in independent claim 15 of Group 2.

More specifically, independent claim 3 recites “[a] system for data communication in the human body, comprising: *a sensor, which is put in the human body*, having transmitting electrodes for generating electric potential difference; and a receiver installed on the surface of the human body to receive a current generated by the electric potential difference through the human body.” This appears to be a generic system claim which encompasses Group 2, since independent claim 15, for example, is directed to “[a] capsule type endoscope put in the human body” that appears to be specie of a sensor which is put in the human body.

Furthermore, while the Action has not indicated what different classes and/or subclasses Groups 1 and 2 fall under, a publication of the instant application US 2006/0243288 indicates U.S. class as: 128/899; 128/903; and 600/160.

USPTO (<http://www.uspto.gov/go/classification/uspc128/sched128.htm>) identifies class 128 as “SURGERY” and class 600 as also “SURGERY,” and moreover, under the class 128, class 600 is identified as follows: “Class 600 is an integral part of this Class (Class 128). . . .”

Accordingly, it logically follows that Group 1 would necessitate a search in the same class as the class of Group 2. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden.

See MPEP §803, which states that: “if the search and examination of all the claims in an application can be made without serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions” (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

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It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: December 30, 2008

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